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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,531	01/23/2004	John Topper	374-001U	9222
23429 7590 03/09/2007 GREGORY SMITH & ASSOCIATES 3900 NEWPARK MALL ROAD, 3RD FLOOR NEWARK, CA 94560			EXAMINER OKEZIE, ESTHER O	
			ART UNIT 3652	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/09/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/763,531

Applicant(s)

TOPPER, JOHN

Examiner

Esther O. Okezie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 12/7/2006 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1,2,4-14, and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Leonard, Jr. et al in view of Shields and further in view of Holden.
2. Regarding claim 1 and 17, Leonard discloses a twist lock apparatus for lifting cargo comprising: a catch (fitting 13) including a top panel and said catch adapted to be connected to a load and lifted and lowered by a tether with a weighted body (26) on the tether, said top panel having a top surface, a bottom

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surface (figure 2) and at least one slot (15) open to an entry hole in said top panel, a bob (21) including weighted body (26), said weighted body being insertable through said entry hole in said top panel, said at least one slot being sized to receive said shank, and a tether (41) attached to said tether anchor.

However, Leonard discloses only one receiving slot (15) for the weighted body (26) to pass through. Leonard does not teach said at least one slot comprising a confining end and a receiving end wherein the weighted body is insertable through the entry hole only and not the through the at least one slot. Shields discloses an apparatus for securing loads prior to lifting which includes tie down plate (18) with entry hole (34) and slots (40) including receiving end (44) and a confining end (38) that engages the shaft (56) of the bulb hook (26). The slots or cutout arms (44) are of smaller width than the bob or cylindrical base (54) so that the cylindrical base is confined in the entry hole (see figures 1,2,4, and 6; abstract; col. 3, lines 23-65). In fact, Shields discloses the device of claim 1, but does not disclose this device for lifting cargo, but for securing cargo against shifting during lifting. It would have been obvious to one of ordinary skill in the art to modify the entry hole (15) of the corner fitting of Leonard, Jr. et al. to include slots with confining ends as taught by Shields so that the weighted body or crossbar (26) could be further restricted from passing through the hole and disengaging from the corner fitting and consequently dropping the load.

Neither Leonard nor Shields disclose the amended limitation in claim 1, including a concave depression in the entry hole of the top panel of the catch. Holden discloses a concave depression or "inwardly beveled" opening (2) in the

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entry hole of the top panel of a lift fitting (col. 2, lines 55-62). It would have been obvious to one of ordinary skill at the time of the invention to modify the opening of the combination with a concave or "inwardly beveled" entry hole as taught by Holden in order to precisely engage the weighted body within the opening during lifting.

Regarding claim 17, neither Leonard nor Shields describe the amended limitation of claim 17 requiring the catch is removably connected to the load. Holden discloses corner fittings or countersunk plates (1) for log lifting container (9). The corner fittings (1) are removably connected to the log lift by bolts (12). It would be obvious to one of ordinary skill in the art to include removable corner fittings on the combination as taught by Holden instead of permanently welding the fittings onto the container so that the fittings could be exchanged between multiple containers.

It should be noted that the previous limitation of presently cancelled claim 19 required the catch to be permanently connected to the load as shown in Leonard.

2. Regarding claims 2 and 9, Leonard et al. discloses the device of claim 1 comprising: a securing means for attaching said catch to said load to be moved, corner fitting (13) is welded to cargo container (11) which holds the load. Neither Leonard nor Shields describe the amended limitation requiring the catch is removably connected to the load. Holden discloses corner fittings or countersunk plates (1) for log lifting container (9). The corner fittings (1) are removably

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connected to the log lift by bolts (12). It would be obvious to one of ordinary skill in the art to include removable corner fittings on the combination as taught by Holden instead of permanently welding the fittings onto the container so that the fittings could be exchanged between multiple containers.

It should be noted that the previous limitation of presently cancelled claim 19 required the catch to be permanently connected to the load as shown in Leonard.

3. Regarding claim 4 Leonard discloses the device of claim 1 wherein said shank may be received in said slot, and said weighted body may contact said bottom surface of said top panel when said portable lifting device is used to lift an object (see figs 3-6).

4. Regarding claim 5 Leonard discloses the device of claim 1 wherein said catch comprises at least one side panel (fig 2).

5. Regarding claim 6 Leonard discloses the device of claim 1 wherein said catch comprises at least four side panels (fig 2).

6. Regarding claim 7 Leonard discloses the device of claim 1 wherein said catch comprises a single piece of durable rigid material (fig 2; col. 1, lines 18-23).

7. Regarding claim 8 Leonard discloses the device of claim 1 wherein said catch comprises a bottom panel (figs 5 and 6).

8. Regarding claim 10, Leonard, Jr. et al does not disclose a securing means for attaching the load to the catch comprising at least one strap, Leonard discloses a container for securing the load. Shields discloses a strap (rope 30)

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for securing vessel (8). It would have been obvious to one of ordinary skill in the art at the time of the invention to further secure the load in the container with a strap as taught by Shields so that the load would not shift during transport.

9. Regarding claim 11, Leonard does not disclose the entry slot comprising four slots. Shields discloses four slots (40) arranged equidistant from the entry slot (34). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide four equidistant slots as taught by Shields in order to confine the weight of the twistlock in all four of the cardinal directions of movement.

10. Regarding claim 12 Leonard discloses the device of claim 1 wherein the weighted body comprises a durable rigid material (the twist-lock is made from heavy casted material; col. 3, lines 55-60).

11. Regarding claim 13, Leonard discloses an apparatus for lifting cargo wherein said weighted body is cylindrical in shape (26).

12. Regarding claim 14 Leonard discloses the device of claim 1 wherein anchor is sized to prevent passage through said entry hole (see figures 3 and 4).

13. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leonard in view of Holden. Leonard discloses the method of selectively moving a load between a low position and an elevated position the steps comprising:

- a. providing a portable lifting device comprising a catch including a top panel, said top panel having a top surface, a bottom surface and at least

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one slot, said at least one slot comprising a confining end and a receiving end open to an entry hole in said top panel, a bob including weighted body, a shank projecting from said weighted body, and a tether anchor connected to said shank, said weighted body being insertable through said entry hole in said top panel, but not through said at least one slot said at least one slot being sized to receive said shank, a tether attached to said tether anchor(figures 1-4);

- b. securing said catch to said load;
- c. lowering said bob to said catch and allowing said weighted body of said bob to pass through said entry hole;
- d. moving said shank into one said slot;
- e. applying a vertical force to said tether causing said weighted body to contact said the bottom surface of said top panel; and
- f. adjusting a length of tether between a user and said tether anchor to raise or lower the load;
- g. lowering the load to a support surface;
- h. allowing said shank to move in said slot toward said entry hole; and
- i. pulling said weighted body upward through said entry hole (see figures 1-8).

However Leonard does not disclose the amended limitation in claim 15, including a concave depression in the entry hole of the top panel of the catch. Holden discloses a concave depression or "inwardly beveled" opening (2) in the entry hole of the top panel of a lift fitting (col. 2, lines 55-62). It would have been

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obvious to one of ordinary skill at the time of the invention to modify the opening of the Leonard with a concave or "inwardly beveled" entry hole as taught by Holden in order to precisely engage the weighted body within the opening during lifting.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EOO 3/4/07



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SUPERVISOR/EXAMINER